

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

<p>NANCY ANN BURKE, as Personal Representative for the Estate of DAVID K. BURKE, and NANCY ANN BURKE, individually, and RUSSELL DAVID BURKE, and JEFFREY JOHN BURKE, and KATHERINE ELIZABETH BURKE, and VICTORIA JANE BURKE,</p> <p>Plaintiffs,</p> <p>v.</p> <p>WINNEBAGO INDUSTRIES, INC., LIPPERT COMPONENTS, INC., and LCI INDUSTRIES,</p> <p>Defendants.</p>	<p>CASE NO. 21-3020</p> <p><b>MOTION FOR SUMMARY JUDGMENT</b></p> <p><i>ORAL ARGUMENT REQUESTED</i></p>
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COME NOW, Defendants Lippert Components, Inc. and LCI Industries (collectively “Defendants”), pursuant to Fed. R. Civ. P. 56 and Local Rule 56(a)(1) and move for summary judgment and in support thereof states as follows:

1. Plaintiffs filed suit against Defendants on June 30, 2021.
2. Plaintiffs seek damages for products liability claims arising out of the death of Mr. David Burke.
3. Specifically, Plaintiffs bring claims in negligence and strict liability against Defendants for design defect, manufacturing defect, and failure to warn.
4. Plaintiffs’ claims fail for several reasons.

**I. Many of Plaintiffs' Claims are Wrongly Pleaded.**

5. Plaintiffs' strict liability claims for design defect, presale failure to warn, and post-sale failure to warn must be dismissed as a matter of law because the Iowa Supreme Court has routinely rejected the existence of such claims as strict liability theories.

**II. Iowa's Successor Liability Law Precludes Liability to Lippert and LCI.**

6. As the successor company of the PowerGear and Kwikkee assets, Defendants is liable in strict liability or negligence for the predecessor company's manufacturing defect, design defect, or failure to warn claims.

**III. Plaintiffs' Failure to Warn Claims Lack Necessary Expert Testimony.**

7. Plaintiffs' expert report fails to provide any analysis or expert conclusions in support of their failure to warn claims. Such testimony is necessary to support such claims. The lack of such testimony is therefore fatal to Plaintiffs' failure to warn claims.

**IV. Plaintiffs' Design Defect Claims Lack Evidence of Safer Alternate Design.**

8. Plaintiffs' design defect claim fails as a matter of law because they have failed to put forth evidence of an alternate safer design.

9. For these reasons, Plaintiffs' claims fail as a matter of law and Defendants' motion must be granted.

10. Attached to this motion and incorporated by this reference are a statement of undisputed facts, brief, and appendix.

WHEREFORE, Defendants Lippert Components, Inc. and LCI Industries, respectfully requests the Court grant their motion for summary judgment. Defendants request oral argument on this motion.

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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by service upon each of the attorneys of record herein at their respective addresses disclosed on the pleadings via email on November 7, 2022, pursuant to electronic filing procedures:

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